IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9046 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

TULIP TOWER COOPERATIVE HOUSING SOCIETY LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9046 of 2003

MR RJ OZA for Petitioner No. 1-2
MS. ARCHANA RAVAL, AGP, for the State.
MR KB PUJARA, for respondent No.2
MR RM CHHAYA, for respondent No.3.
MR DN PATEL for respondent No. 4

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 10/07/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

1. Rule. Service of Rule is waived by learned Assistant Government Pleader, Ms. Archana Raval for the State and learned advocate, Mr. K.B. Pujara, for Ahmedabad Electricity Company, learned advocate, Mr. R.M. Chhaya, for Ahmedabad Municipal Corporation and learned advocate, Mr. D.N. Patel, for Ahmedabad Urban Development Authority.

2. In this petition, the learned counsel appearing for the respondents have already agreed and waived the service of Rule, and upon joint request and considering the peculiar facts and special circumstances obtainable in this matter, it is being disposed of finally.

3. The petition pertains to "High Rise Building", situated in the City of Ahmedabad and also within the precincts of Ahmedabad Municipal Corporation (AMC) and Ahmedabad Urban Development Authority (AUDA), in which Fire Safety Systems have been installed and upon its inspection by the Ahmedabad Municipal Corporation authorities, "No Objection Certificate" has also been issued.

4. After having heard the learned counsel appearing for the parties and considering peculiar facts and special circumstances, we propose to dispose of finally this petition with the following directions, on the same lines and pattern given by this Court in Special; Civil Application No.497 of 2001 and other allied matters on 5.11.2001, which were pertaining to "Low Rise Buildings".

DIRECTIONS

(i) The petitioner, who has not applied for the grant of Building Use Permission, after complying with the prescribed Fire Safety Norms for High Rise Buildings, and pursuant to the earlier interim orders of this Court, shall make an application in the prescribed form with requisite and required particulars and data to AMC or AUDA within two months from the date of receipt of the writ of this Court, if not so far applied, with a copy to AEC, and upon making such an application, the AEC will be at liberty to supply electricity to the apartment/house of the petitioner within a period of three months on usual terms and conditions by charging requisite fees. It is also clarified that the application to AEC may

not be necessary in cases where electricity supply is either provided, and notice for disconnection of supply is issued. The petitioner shall also file an undertaking in writing before this Court within 10 days from today with a copy to the AEC, AMC and AUDA;

(ii) The AMC and AUDA, as the case may be, shall have to take a decision in respect of such application for the purpose of Building Use Permission of the petitioner, within a period of four months from the date of receipt of the application, in accordance with law and rules applicable for the grant of such permission by a speaking order;

(iii) In the event of rejection of Building Use Permission, for whatever reason, it shall be incumbent upon the authority to send such a Report to AEC within one week from such rejection and intimation of the same shall be sent to the petitioner;

(v) Upon receipt of the Report from AMC and/or AUDA with regard to the rejection of the Building Use Permission to the petitioner, the AEC shall, before disconnecting electric supply, serve a notice to the petitioner granting him 30 days' time from the date of receipt of notice, with a view to facilitate him with an opportunity for making alternative arrangement or to avail permissible legal redressal.

5. It is clarified, for the removal doubt, if any, that the notices earlier issued by the authorities shall not be acted upon and implemented by which time the authorities are directed to decide the applications made and/or to be made by the petitioner, and it will be open for the authorities for further action after consideration of the application of the petitioner and take permissible legal actions.

6. This petition shall stand finally disposed of, with the aforesaid directions. However, we clarify, with a view to remove doubt, that in case of any difficulty to any party, it will be open for such party to approach or move this Court. Upon request, direct service is granted.

8. Rule is made absolute to the above extent without any order as to costs.

[J.N. BHATT, ACTG. C.J.]

[A. L. DAVE, J.]

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